

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.: 13 CV 1157 MJD/FLN**

Katelynn Hubbell,)	
)	
Plaintiff,)	
)	
v.)	ANSWER AND
)	AFFIRMATIVE DEFENSES
American Accounts & Advisors, Inc.,)	
)	
Defendant.)	

Defendant American Account & Advisors, Inc. (“AAA”)¹ hereby answers the Complaint of Katelynn Hubbell (“Hubbell”) as follows:

JURISDICTION

1. Answering paragraph 1 of the Complaint, AAA admits only that the Complaint purports to assert claims under the Fair Debt Collection Practices Act. Answering further, AAA denies the remaining averments set forth in paragraph 1.

2. Answering paragraph 2 of the Complaint, AAA admits only that the Court has subject matter jurisdiction of this action.

3. Answering paragraph 3 of the Complaint, AAA admits only that venue is proper in this district.

PARTIES

4. Answering paragraph 4 of the Complaint, AAA lacks knowledge or information

¹The correct spelling is American Accounts & Advisers, Inc.

sufficient to form a belief as to the truth of the averments set forth therein.

5. Answering paragraph 5 of the Complaint, AAA admits but states that throughout the Complaint Hubbell misspells the name of AAA.

FACTUAL ALLEGATIONS

6. Answering paragraph 6 of the Complaint, AAA admits.

7. Answering paragraph 7 of the Complaint, AAA admits.

8. Answering paragraph 8 of the Complaint, AAA states that Exhibit 1 speaks for itself.

9. Answering paragraph 9 of the Complaint, AAA admits.

10. Answering paragraph 10 of the Complaint, AAA states that Exhibit 2 speaks for itself.

11. Answering paragraph 11 of the Complaint, AAA states that Hubbell's claims based on violations of 15 U.S.C §1692f have been dismissed by the Court. Answering further, AAA denies the remaining averments set forth in paragraph 11.

12. Answering paragraph 12 of the Complaint, AAA denies the averments set forth.

TRIAL BY JURY

13. Answering paragraph 13 of the Complaint, AAA admits.

CAUSES OF ACTION

14. Answering paragraph 14 of the Complaint, AAA repeats, realleges and

incorporates by reference its answers to all of the paragraphs contained in Hubbell's Complaint numbered 1 through 13.

15. Answering paragraph 15 of the Complaint, AAA denies the averments set forth, and specifically points out the Court ordered that Hubbell's claims pursuant to 15 U.S.C. §1692f be dismissed.

16. Answering paragraph 16 of the Complaint, AAA denies any violations of the FDCPA and denies that Hubbell is entitled to any relief whatsoever, including actual damages, statutory damages, reasonable attorney's fees and costs under the FDCPA, and/or any relief whatsoever against AAA.

ANSWER TO PRAYER FOR RELIEF

17. AAA denies that Hubbell is entitled to any relief whatsoever, including actual damages, statutory damages, costs of litigation and reasonable attorney's fees under the FDCPA and/or any relief whatsoever against AAA. AAA further responds that a Rule 68 Offer of Judgment in the amount of \$1,001 was served on Hubbell's Counsel on June 14, 2013 which was not accepted by Hubbell.

FIRST AFFIRMATIVE DEFENSE

18. Hubbell's Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

19. To the extent that Hubbell has suffered any damages as a result of the matters alleged in her complaint, Hubbell has failed to mitigate those damages and her claims are

barred, in whole or in part.

THIRD AFFIRMATIVE DEFENSE

20. Hubbell's claims are barred by the doctrines of waiver, laches and estoppel.

FOURTH AFFIRMATIVE DEFENSE

21. AAA expressly reserves the right to assert such other and further affirmative defenses as may be appropriate.

WHEREFORE Defendant AAA prays as follows:

1. That Plaintiff Hubbell take nothing by this action;
2. That judgment be entered against Plaintiff Hubbell and in favor of Defendant AAA;
3. That Defendant AAA be awarded its costs incurred in this action, including, where applicable under the law, its reasonable attorneys' fees pursuant to 15 U.S.C. §1692k(a)(3); and
4. That this Court grant such other relief as the Court deems just and proper.

MALACKO LAW OFFICE

Dated: November 7, 2013

s/ Richard J. Malacko
Richard J. Malacko 184421
Attorney for Defendant
332 Minnesota Street
Suite W1610
St. Paul, MN 55101
651 223-5175 telephone
651 223-5179 fax
rick@malackolaw.com